

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re E.B., a Person Coming
Under the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

E.B.,

Defendant and Appellant.

B286922

Los Angeles County
Super. Ct. No. YJ38912

**Redacted Version—
Redacts material from
sealed record**

APPEAL from an order of the Juvenile Court of
Los Angeles County, Irma J. Brown, Judge. Conditionally
reversed and remanded with directions.

Tonja R. Torres, under appointment by the Court of Appeal,
for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler,
Chief Assistant Attorney General, Lance E. Winters, Assistant
Attorney General, Shawn McGahey Webb and Shezad H. Thakor,
Deputy Attorneys General, for Plaintiff and Respondent.

The juvenile court sustained a petition under Welfare and Institutions Code section 602 alleging that appellant E.B. resisted a peace officer. (Pen. Code, § 148, subd. (a)(1).) On appeal, E.B. does not challenge the merits of the adjudication but asks us independently to review the record of the in camera hearing on his *Pitchess* motion. (*Pitchess v. Superior Court of Los Angeles County* (1974) 11 Cal.3d 531 (*Pitchess*).) We have done so, and we conclude the trial court did not provide a sufficient record for meaningful review. Accordingly, we conditionally reverse the juvenile court's true finding and remand to the trial court for a new *Pitchess* in camera hearing in which proper procedures are followed and an adequate record is made for review. (See *People v. Wycoff* (2008) 164 Cal.App.4th 410.)

BACKGROUND

E.B. filed a *Pitchess* motion seeking personnel records for two officers with the Santa Monica Police Department, Officer Barclay Bell and Officer Lewis Gilmour. The record on appeal does not include the motion or supporting papers, nor the opposition apparently filed by real party in interest, the City of Santa Monica. The petition names Officer Bell as the officer whom E.B. resisted. Officer Gilmour was Bell's partner.

After a hearing on September 7, 2017, the court granted the motion. The court stated the "request for the items [to be] discovered [was] overbroad," so the court limited the areas of inquiry to "aggressive behavior, violence, excessive force, and ethnic bias, fabrication of charges or probable cause, anything that would go to the area of honesty or dishonesty or fabrication of evidence."

The court then went into chambers with the court reporter, the custodian of records, and counsel for the City of Santa Monica.

[REDACTED]

[*REDACTED*]

[REDACTED]

DISCUSSION

E.B. asks us independently “to review the sealed record^[1] to determine whether the trial court abused its discretion by concluding that there was no relevant discoverable information to turn over to the defense.” The Attorney General has no objection.

In *People v. Mooc* (2001) 26 Cal.4th 1216 (*Mooc*), our Supreme Court explained how important it is for a trial court conducting a *Pitchess* in camera hearing to make an adequate record for appellate review. “Without some evidence in the record indicating what the trial court reviewed,” a defendant is “unable to obtain meaningful appellate review of the court’s decision not to disclose any evidence in response to his *Pitchess* motion.” (*Mooc, supra*, 26 Cal.4th at p. 1228.) Here, the juvenile court merely recited the number of the complaint, the date, and the time, and then stated “not relevant” or “not discoverable.”² As in *Mooc*, here “no record exists of what documents the trial court considered before it ruled no disclosure was necessary.” (*Ibid.*; cf. *People v. Prince* (2007) 40 Cal.4th 1179, 1285 [rejecting

¹ The juvenile court did not, on the record, order the transcripts of the in camera hearings sealed. However, both parties treat the in camera proceedings as having been conducted under seal, and we do as well. (See Evid. Code, §§ 915, subd. (b), 1045, subd. (b).)

²

[REDACTED]

challenge to *Pitchess* motion ruling where trial court adequately stated for the record the contents of the officer's personnel file that the court reviewed].)

DISPOSITION

The juvenile court's true finding is conditionally reversed. We remand the case to the juvenile court with directions to hold a new in camera hearing to augment the record with a sufficient description of the documents the court considered in chambers when it ruled on the *Pitchess* motion. (See *People v. Mooc* (2001) 26 Cal.4th 1216, 1231.) E.B. of course may then file another notice of appeal, again asking us independently to review the record, which then will be an adequate record for meaningful review.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

EGERTON, J.

We concur:

EDMON, P. J.

DHANIDINA, J.